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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,372	08/15/2003	Dusan Pavcnik	PA-5213-CIP2	2552

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EXAMINER

BLANCO, JAVIER G

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,372

Applicant(s)

PAVCNIK ET AL.

Examiner

Javier G. Blanco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicants' amendment of claims 2 and 31 in the reply filed on November 22, 2005 is acknowledged.

Election/Restrictions

2. Applicants' election of the medical device embodied in Figure 84 in the reply filed on November 22, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. It was recently noted that the fourteen (14) independent claims further present a number of patentably distinct species. Therefore, this application contains claims directed to the following patentably distinct species, from each of the three groups of species, of the claimed invention:

Medical device

Species A: Figures 1, 2, 5, and 6

Species B: Figures 3, 3A, 3B, and 4

Species C: Figures 7, 8

Species D: Figures 12-14

Species E: Figures 15, 16

Species F: Figure 17

Species G: Figure 18

Species H: Figure 19

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Species I: Figures 20 and 22-26

Species J: Figure 21

Species K: Figure 21A

Species L: Figure 21B

Species M: Figure 27

Species N: Figure 29

Species O: Figure 30

Species P: Figure 31

Species Q: Figure 32

Species R: Figures 35-37

Species S: Figures 38-40

Species T: Figure 41

Species U: Figure 42

Species V: Figure 44

Species W: Figure 46

Species X: Figure 47

Species Y: Figure 48

Species Z: Figure 49

Species AA: Figure 53

Species BB: Figure 54

Species CC: Figure 55

Species DD: Figure 56

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Species EE: Figure 57

Species FF: Figure 58

Species GG: Figure 59

Species HH: Figure 60

Species II: Figure 61

Species JJ: Figure 62

Species KK: Figure 63

Species LL: Figure 64

Species MM: Figure 65

Species NN: Figure 66

Species OO: Figure 67

Species PP: Figure 68

Species QQ: Figures 69, 70

Species RR: Figure 71

Species SS: Figure 72

Species TT: Figures 73, 74

Species UU: Figure 75

Species VV: Figure 76

Species WW: Figure 77

Species XX: Figure 78

Species YY: Figure 79

Species ZZ: Figures 80, 81

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Species AAA: Figure 82

Species BBB: Figure 83

Species CCC: Figure 84

Species DDD: Figure 85

Species EEE: Figure 86

Valve prosthesis

Species A: Independent claims 1, 8, 10, 11, 20, 27, 29, and 36

Species B: Independent claims 2 and 37

Species C: Independent claim 3

Species D: Independent claim 23

Species E: Independent claim 30

Species F: Independent claim 32

Centering support elements

Species A: Proximal to pivot points

Species B: Distal to pivot points

Species C: Co-extensive with the support frame

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, from each of the three groups of species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Examiner apologizes for not having included the recently added groups of species with the previous office action. After careful reading of the claims, Examiner concluded that the application contains claims directed to patentably distinct species. As Applicants are surely aware, the valve prosthesis art is a crowded art, and a search for each patentably distinct species is a burdensome search. The election of species requirement is included to give the Applicants the opportunity to select a different species in view of the supplemental election of species requirement.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 703-605-4259. The examiner can normally be reached on M-F (9:00 a.m.-6:00 p.m.), first Friday of the bi-week off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

JGB



February 3, 2006



David H. Willse
Primary Examiner